

Section 2: Proposed Regulation; Statement of Purpose – Revised Submission

R-39.Rev. 03/2012
(Title page)

IMPORTANT: Read instructions on back of last page (Certification Page) before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations

State of Connecticut
REGULATION
of

NAME OF AGENCY

Connecticut State Library

Concerning

SUBJECT MATTER OF REGULATION

Real Property Electronic Recording

Section 1. The Regulations of Connecticut State Agencies are amended by adding sections 7-35ee-1 to 7-35ee-10, inclusive, as follows:

(NEW) Section 7-35ee-1. Real property electronic recording

Sections 7-35ee-1 to 7-35ee-10, inclusive, apply to real property electronic recording in the office of the town clerk pursuant to chapter 92a of the Connecticut General Statutes. A town clerk may elect to accept electronic documents for recording in accordance with sections 7-35ee-1 to 7-35ee-10, inclusive, of the Regulations of Connecticut State Agencies and with all applicable sections of the Connecticut General Statutes, including, but not limited to, chapter 92a of the Connecticut General Statutes.

(NEW) Sec. 7-35ee-2. Definitions

As used in sections 7-35ee-1 to 7-35ee-10, inclusive, of the Regulations of Connecticut State Agencies:

- (1) "Delivery agent" means a party who has entered into an agreement with a participating town clerk to deliver an electronic document from a submitter to a participating town clerk and to return the recorded document to the submitter;
- (2) "Document" has the same meaning as provided in section 7-35bb of the Connecticut General Statutes;
- (3) "Electronic" has the same meaning as provided in section 7-35bb of the Connecticut General Statutes;
- (4) "Electronic document" has the same meaning as provided in section 7-35bb of the Connecticut General Statutes;
- (5) "Electronic document delivery system" means an automated system for the secure transmission of an electronic document between a submitter and a participating town clerk;
- (6) "Electronic recording" means the delivery and return of an electronic document, using an electronic document delivery system, for the purpose of recording that document on the land records, using a land records management system;
- (7) "Electronic signature" has the same meaning as provided in section 7-35bb of the Connecticut General Statutes;

- (8) "Land records management system" means a system for recording and indexing documents on the land records, accessing and maintaining the land records, and producing microfilm security copies;
- (9) "Land records management system vendor" means a party who provides a land records management system;
- (10) "Participating town clerk" means a town clerk who has elected to accept electronic documents for recording; and
- (11) "Recording information" means the information added to a document at the time such document is recorded, such as the date and time of receipt of such document for record, the name and municipality of the recording officer, and the book and page of such document or other suitable indication of its location approved by the Public Records Administrator.
- (12) "Submitter" means a party who requests that an electronic document be recorded.

(NEW) Sec. 7-35ee-3. Electronic Recording Models

Electronic documents shall conform to the following electronic recording models:

- (1) Model 1, which utilizes scanned ink-signed documents, transmitted without Extensible Markup Language (XML) indexing data;
- (2) Model 2, which utilizes scanned ink-signed documents or documents that have been created electronically and contain an electronic signature, transmitted with XML indexing data; or
- (3) Model 3, which utilizes documents that have been created electronically and contain an electronic signature, transmitted with embedded XML indexing data.

(NEW) Sec. 7-35ee-4. Data Formats

Electronic recording shall meet technical standards for electronic document formatting and data fields as prescribed by the Property Records Industry Association (PRIA) in the PRIA eRecording XML Standard Version 2.4, as amended from time to time, which includes PRIA Request Version 2.4.2 (August 2007), as amended from time to time; PRIA Response Version 2.4.2 (August 2007), as amended from time to time; Document Version 2.4.1 (October 2007), as amended from time to time; and Notary Version 2.4.1 (October 2007), as amended from time to time.

(NEW) Sec. 7-35ee-5. Electronic Document Formats

Electronic documents shall be transmitted and stored as either TIFF or PDF files, in accordance with the TIFF 6.0 specification, published by the International Organization for Standardization as *ISO 12639:2004, Graphic technology – Prepress digital data exchange – Tag image file format for image technology (TIFF/IT)*, as amended from time to time, or the PDF 1.7 specification, published by the International Organization for Standardization as *ISO 32000-1:2008, Document management – Portable document format – Part 1: PDF 1.7*, as amended from time to time.

(NEW) Sec. 7-35ee-6. Electronic Signatures and Electronic Notarizations

- (a) Documents containing electronic signatures or electronic notarizations shall conform to all applicable standards established by the Secretary of the State and to all applicable sections of the Connecticut

General Statutes, including, but not limited to, chapter 15 of the Connecticut General Statutes and sections 3-94a to 3-95, inclusive, of the Connecticut General Statutes.

(b) A participating town clerk shall only be required to accept electronic documents containing electronic signatures or electronic notarizations that the clerk has the technology to support.

(c) A participating town clerk shall not be responsible for authenticating electronic signatures or electronic notarizations.

(NEW) Sec. 7-35ee-7. Electronic Recording Processing Requirements

(a) A participating town clerk shall provide notice of confirmation or rejection of recording through the electronic document delivery system.

(1) A notice of confirmation shall include recording information for the electronic document accepted for recording and shall identify the electronic document accepted for recording.

(2) A notice of rejection shall include a brief explanation of the reason or reasons for rejection and shall identify the electronic document rejected for recording.

(3) If a participating town clerk complies with the notice requirements, the failure of a submitter to receive actual notice of confirmation or rejection of a recording shall not affect the validity of the confirmation or rejection.

(b) A participating town clerk may contact a submitter regarding an electronic document submitted for recording prior to sending a notice of confirmation or rejection. The delivery agent shall ensure that the submitter includes telephone or e-mail contact information with each such submission.

(c) A participating town clerk shall receive electronic documents and enter the time of receipt in accordance with sections 7-24 and 7-25 of the Connecticut General Statutes.

(NEW) Sec. 7-35ee-8. Security Requirements

(a) The participating town clerk, the delivery agent and the land records management system vendor shall implement and maintain procedures to ensure the security of the electronic document delivery system and the land records management system, including the authenticity and integrity of the electronic documents and of the public record maintained by the participating town clerk.

(b) A participating town clerk shall provide a secure method for accepting electronic documents through the electronic document delivery system and for recording and maintaining documents in the land records management system. Security standards implemented by a participating town clerk shall accommodate electronic signatures and electronic notarizations of electronic documents in a manner that complies with chapter 92a of the Connecticut General Statutes.

(c) A delivery agent shall implement and maintain security procedures for all electronic transmissions to a participating town clerk through the electronic document delivery system and shall be responsible for maintaining the security of the electronic document delivery system within the office of such delivery agent.

(d) Electronic document delivery systems and land records management systems shall protect against system and security failures and, in addition, shall provide backup, disaster recovery, and audit trail mechanisms. The delivery agent or land records management system vendor shall provide audit trail information to the participating town clerk on request.

(e) Electronic document delivery systems and land records management systems shall not permit any unauthorized party to modify, manipulate, insert or delete information, without detection, in electronic documents or in the public record maintained by the participating town clerk.

(f) If a breach in security is detected by the participating town clerk, delivery agent or land records management system vendor, such clerk, agent or vendor shall notify the other two parties immediately. The clerk, agent and vendor shall work cooperatively to take remedial action and to resolve any issues related to a breach.

(NEW) Sec. 7-35ee-9. Records Retention, Preservation and Disclosure

(a) Land records and indexes are permanent records and shall be maintained in accordance with sections 7-24 and 7-25 of the Connecticut General Statutes and with the records management program established by the Public Records Administrator under sections 11-8 and 11-8a of the Connecticut General Statutes.

(b) Each town clerk shall maintain a systematic program for microfilming the land records and indexes, producing archival quality microfilm that is stored at a secure off-site facility approved by the Public Records Administrator.

(c) The participating town clerk shall maintain and disclose computer-stored public records in accordance with section 1-211 of the Connecticut General Statutes.

(NEW) Sec. 7-35ee-10. Agreement and Procedures

(a) The delivery agent and participating town clerk shall enter into an agreement specifying the terms and conditions of participation in the town clerk's electronic recording program. The provisions of the agreement shall be consistent with this section and sections 7-35ee-1 to 7-35ee-9, inclusive, of the Regulations of Connecticut State Agencies and with all applicable sections of the Connecticut General Statutes, including, but not limited to, chapter 92a of the Connecticut General Statutes.

At a minimum the agreement shall address the following items:

- (1) Accepted electronic recording models;
- (2) Accepted document types;
- (3) Defined technical specifications for data formats, electronic document formats, electronic transmissions and security;
- (4) Indexing fields required for each document code;
- (5) Electronic signature and electronic notarization requirements;
- (6) Payment options for recording fees and applicable taxes;

(7) Hours during which electronic submissions will be accepted and processing schedules that affect order of acceptance;

(8) Electronic document acceptance and rejection requirements and procedures;

(9) Responsibility of the delivery agent to review the qualifications of each potential submitter and to approve the potential submitter prior to granting access to the electronic document delivery system; and

(10) Responsibility of the delivery agent to enter into an agreement with each approved submitter, in which the submitter agrees to submit electronic documents for recording in accordance with all applicable state statutes and regulations and to maintain the security of the electronic document delivery system within the office of such submitter.

(b) A participating town clerk may include in the agreement other procedures and requirements consistent with this section and sections 7-35ee-1 to 7-35ee-9, inclusive, of the Regulations of Connecticut State Agencies and with all applicable sections of the Connecticut General Statutes, including, but not limited to, chapter 92a of the Connecticut General Statutes, in order to implement fully an electronic recording program.

(c) A participating town clerk shall (1) establish procedures for electronic recording in the municipality, (2) post the procedures in the town clerk's office, on the municipality's Internet web site, if available, and through the electronic document delivery system, and (3) make a copy of the procedures available on request. The procedures shall cover, at minimum, the items listed in subdivisions (1) through (8) of subsection (a) of this section.

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

The purpose of this regulation concerning real property electronic recording is to implement Chapter 92a of the Connecticut General Statutes, the Uniform Real Property Electronic Recording Act, so that town clerks may elect to accept electronic documents for recording on the land records.

At present, town clerks accept paper documents for recording and they will continue to do so. Under this regulation, clerks may elect to accept electronic documents as well. Electronic recording refers to the delivery and return of an electronic document for the purpose of recording that document on the land records. It can reduce processing time and mailing expenses for town clerks and it is the preferred submission method for some submitters. Electronic recording is currently an option in nearly 40 states.

This regulation ensures that town clerks who accept electronic documents will do so in a manner that is consistent with national and statewide practices. It also ensures that the records and recordkeeping systems will be maintained properly and securely.

The regulation addresses these matters through the following provisions:

1. Establishes technical standards for document models, data formats, and document formats that are consistent with those used in other jurisdictions throughout the country.
2. Establishes requirements for the electronic recording process, including the processing of documents, electronic signatures and notarizations, to ensure that these practices comply with existing state law and are consistent throughout the state.
3. Ensures that records will be transmitted and stored in a secure manner and managed according to established retention, preservation and disclosure requirements.
4. Requires an agreement between the town clerk and delivery agent to ensure that specific elements are addressed in a formal contract between these two parties.

It is not expected that this regulation will impact or change any existing law or regulation.